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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,544	10/02/2003	Henry G. Roethel	TOMZ 2 00432	9558
7590	08/11/2004		EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP Seventh Floor 1100 Superior Avenue Cleveland, OH 44114-2518			KEASEL, ERIC S	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/677,544	ROETHEL ET AL.
	Examiner Eric Keasel	Art Unit 3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on July 1, 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) 28-32 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7, 10-12, and 17-27 is/are rejected.  
 7) Claim(s) 8,9 and 13-16 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 13 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 20040413.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group I in the reply filed on July 1, 2004 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 28-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on July 1, 2004.

### *Claim Objections*

3. Claim 25 is objected to because it appears that --said-- should be inserted after "wherein". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6, 10-12, 19, and 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlson (US Patent Number 2,745,628).

Carlson discloses a faucet comprising: a body (120, 620, 720) comprising: (i) a main bore; and, (ii) a sealing face (122, 622, 722); a stem comprising a first portion (142, 642, 742) that defines a flow path, wherein said flow path communicates with said main bore, said stem

being slidable between first and second positions relative to said body; a seal (148, 648, 748) that moves with said stem between said first and second positions, wherein said seal engages said sealing face of said body when said stem is located in said first operative position to block liquid flow from said main bore of said body and from said flow path, and wherein said seal is spaced from said sealing face when said stem is located in said second position to allow liquid flow from said flow path and said main bore; a biasing element (164, 664, 764) that resiliently biases said stem into said first position; and, a handle (172, 680, 780) operably engaged with said stem to receive manual input force, wherein said stem is movable in response to movement of said handle; further comprising: a spout (132, 628, 728) defining a dispensing bore located downstream from said flow path, wherein said flow path is in communication with said dispensing bore when said stem is located in said second position, and wherein said seal blocks communication between said dispensing bore and said flow path when said stem is located in said first position; further comprising a bonnet (160, 626, 726) connected to said body, wherein said bonnet comprises a hollow chamber through which at least a second portion of said stem extends; wherein said bonnet is releasably connected to said body; wherein a distal end of said second portion of said stem is located external to said hollow chamber, and wherein said handle is pivotably connected to said distal end; wherein said spout and said bonnet are connected; wherein said spout and bonnet are defined as a one-piece construction; wherein said biasing element is operably engaged with said bonnet and said stem; wherein said biasing element comprises a coil spring or a resilient elastomeric element; wherein said body comprises threads for mating with an associated fitment of an associated fluid container; wherein said seal comprises at least one of a resilient O-ring and a resilient flat washer; wherein said seal encircles

said stem; wherein said sealing face of said body encircles an outlet opening of said main bore and wherein said first portion of said stem is inserted into said outlet opening of said main bore; wherein said first portion of said stem is closely received into said outlet opening of said main bore so that said first portion of said stem is cleaned by said body when said stem moves from said second position to said first position; and wherein said flow path comprises an inlet and an outlet (152, 652, 752), wherein said inlet and outlet are defined by separate, spaced-apart openings in said first portion of said stem.

6. Claims 1-4, 6, 7, 10-12, 17-19, and 21 are rejected under 35 U.S.C. 102(b) as being anticipate by Pohlman (US Patent Number 691,569).

Pohlman discloses a faucet comprising: a body comprising: (i) a main bore (B'); and, (ii) a sealing face (16); a stem (21) comprising a first portion (20) that defines a flow path, wherein said flow path communicates with said main bore, said stem being slidable between first and second positions relative to said body; a seal (the face of conical chamber 20) that moves with said stem between said first and second positions, wherein said seal engages said sealing face of said body when said stem is located in said first operative position to block liquid flow from said main bore of said body and from said flow path, and wherein said seal is spaced from said sealing face when said stem is located in said second position to allow liquid flow from said flow path and said main bore; a biasing element (23) that resiliently biases said stem into said first position; and, a handle (24) operably engaged with said stem to receive manual input force, wherein said stem is movable in response to movement of said handle; further comprising: a spout (12) defining a dispensing bore located downstream from said flow path, wherein said flow path is in communication with said dispensing bore when said stem is located in said second

position, and wherein said seal blocks communication between said dispensing bore and said flow path when said stem is located in said first position; further comprising a bonnet (D) connected to said body, wherein said bonnet comprises a hollow chamber through which at least a second portion of said stem extends; wherein said bonnet is releasably connected to said body; wherein a distal end of said second portion of said stem is located external to said hollow chamber, and wherein said handle is pivotably connected to said distal end; wherein said handle comprises a cam portion that bears against said bonnet (at surface 11) and when said handle is pivoted relative to said bonnet from a first position to a second position, said second position of said handle corresponding to said second position of said stem; wherein said spout and said bonnet are connected; wherein said spout and bonnet are defined as a one-piece construction; wherein said biasing element is operably engaged with said bonnet and said stem; wherein said handle and stem are defined by a one-piece construction; wherein said handle comprises first and second tabs that project outwardly from said second portion of said stem and are adapted for manual movement by a user to thereby move said stem between said first and second positions; wherein said biasing element comprises a coil spring or a resilient elastomeric element; and wherein said body comprises threads for mating with an associated fitment of an associated fluid container.

7. Claims 1, 19, 21-23, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Bucknell et al. (US Patent Number 3,415,454).

Bucknell et al. disclose a faucet comprising: a body comprising: (i) a main bore; and, (ii) a sealing face (52); a stem (18) comprising a first portion that defines a flow path, wherein said flow path communicates with said main bore, said stem being slidable between first and second

positions relative to said body; a seal (50) that moves with said stem between said first and second positions, wherein said seal engages said sealing face of said body when said stem is located in said first operative position to block liquid flow from said main bore of said body and from said flow path, and wherein said seal is spaced from said sealing face when said stem is located in said second position to allow liquid flow from said flow path and said main bore; a biasing element (48) that resiliently biases said stem into said first position; and, a handle (56) operably engaged with said stem to receive manual input force, wherein said stem is movable in response to movement of said handle; wherein said biasing element comprises a coil spring or a resilient elastomeric element; wherein said body comprises threads for mating with an associated fitment of an associated fluid container; wherein said seal comprises at least one of a resilient O-ring and a resilient flat washer; wherein said seal encircles said stem; and wherein said stem is restrained against rotation relative to said bonnet.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson, Pohlman, or Bucknell et al. in view of Knedlik (US Patent Number 4,381,099).

The base references fail to disclose body rotatably supporting a nut that is adapted to mate threadably with an associated fitment of an associated fluid container. Knedlik discloses a nut (30) that is adapted to mate threadably with an associated fitment of an associated fluid container in a similar valve system with the flow path formed in a spring-biased closed reciprocating stem. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have added the nut of Knedlik to any of the three base references in order to mount the faucet to an outlet conduit of the associated fluid container as taught by Knedlik (see column 2, lines 39-42).

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson or Pohlman in view of Gotch (US Patent Number 4,548,343).

Neither Carlson nor Pohlman disclose the bayonet connection. Gotch discloses the use of a bayonet connection in an alternate embodiment (Figs. 11 and 12) of a similar valve system with the flow path formed in a spring-biased closed reciprocating stem. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the bayonet connection of Gotch with either of the valves of Carlson or Pohlman in order to provide a connection that does not require threads as taught by Gotch.

*Allowable Subject Matter*

11. Claims 8, 9, and 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter:

Although the prior art of record suggests the use of a bayonet connection, the prior art of record does not disclose or suggest the details of the locking clip of claim 8 or the multiple resilient fingers of claim 9 in combination with the limitations of claims 1-5.

Although the prior art of record suggests a seal retainer in combination with the limitations of claims 1-3, the prior art of record does not disclose or suggest the seal retainer located in said hollow chamber of said bonnet, with seal retainer conformed to limit radial expansion of said seal by comprising a cylindrical recess into which said seal is at least partially axially received, in combination with the limitations set forth in claims 1-3.

*Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. O'Brien, Osborn, Fremion, Klingler, Anderson, Ward, Dreibelbis, and Lundblade disclose similar systems.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (703) 308-6260. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Eric Keasel* 6 Aug 2004  
Eric Keasel  
Patent Examiner  
Art Unit 3754